City of Seattle
Gregory J. Nickels, Mayor

Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3008111

Applicant Name: John Pasco for MV3 LLC

Address of Proposal: 5212 22 Ave. NE

SUMMARY OF PROPOSED ACTION

A Land Use Application to allow an eight unit apartment building with below grade parking on a lot with an environmentally critical area (steep slope). Construction of the project includes 1,300 cubic yards of grading. The existing multi-family structure and detached garage will be demolished.

The following approval is required:

SEPA - Environmental Determination – (Chapter 25.05, Seattle Municipal Code.)

SEPA DETERMINATION: [ ] Exempt [X] DNS [ ] MDNS [ ] EIS
[ ] DNS with conditions
[ ] DNS involving non exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site and Vicinity Description

Located south and west of Ravenna Park between NE 54th and NE 52nd Street, on the east side of 22nd Ave. NE, the 7,962 square foot (sq. ft.) rectangular site is in a Lowrise-3 (L-3) zone, with an Urban Center village overlay. The existing duplex structure on the site was built in 1924. An existing two car garage is located at the north end of the west property line and is accessed via a curb cut on the arterial (22nd Ave. NE). The right-of-way (22nd Ave. NE) is improved with curb, sidewalk, and gutters in front of the subject site however no sidewalks or curbs are located along the west side of 22nd Ave. NE.

There is a thirty foot grade change across the lot, gaining elevation from the east property line to the west property line. The site is mapped as a Steep Slope, Environmentally Critical Area (ECA). However, a limited ECA Exemption was granted by the Department, in June of 2007, due to prior grading to create the right-of-way 22nd Ave. NE. The site is landscaped with vegetation typical of a single family yard, including lawn, shrubs and trees.

Several multi-family buildings are located in the immediate area surrounding the subject site and the number of units per site (density) for the lots fronting on 22nd Ave. NE (between NE 52nd Street and NE 55th Street) ranges from one unit per site to twenty units per site. The L-3 zoning along 22nd Ave. NE transitions to Single Family Residential (SF 5000) to the north of NE 54th Street and east of 21st Ave. NE. The multifamily zoning changes four times in the three blocks from 22nd Ave. NE to 24th Av NE, from L-2 on the lots to the east (behind the subject site, then to LDT to the east of Ravenna Ave. NE and back to L-3. Commercial (NC2 and C-1) zoning is applied to the properties along 25th Ave. NE, three blocks east of the subject site, that changes to C-1 40 south of NE Blakeley Street.

Proposal

The applicant proposes to construct a multifamily building totaling eight (8) units in an environmentally critical area (Steep Slope) with parking for eight (8) vehicles to be located below grade, within a parking structure that will serve all of the units. Units 1 -4 will be side by side on the (lower) eastern portion of the lot and units 5 - 8 will front on 22nd Ave on top of the underground parking structure. An onsite stormwater detention vault will be installed under the parking garage. Vehicle access to the eight (8) parking spaces will be via a sloping driveway ramp from 22nd Ave. NE, near the north property line. The existing duplex structure and the detached garage on the site will be demolished. The proposal includes grading of approximately 1,300 cubic yards of material to allow for the proposed stormwater detention vault, building foundations and vehicular access. Required street improvements will include curb cut and sidewalk repair and street trees.

Public Comments

The two week public comment period ended on July 2, 2008. DPD received two comment letters regarding this proposal during the comment period. Concern was raised about loss of vegetation (including trees) and a potential link to flooding in the area. Trees and drainage are reviewed in detail at the construction stage. Both will also be discussed in the analysis section of this decision.

ANALYSIS – SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05). The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated May 9, 2008). This information was supplemented with a geotechnical report prepared by Earth Solution NW LLC (dated March 30th 2007). The information in the checklist, the geotechnical report and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The site of the proposed action is mapped as an environmental critical area (ECA, steep slopes and landslide). In June of 2007, an ECA exemption was granted by the Department of Planning and Development from the requirement for an ECA Variance for the proposed development, based on the criteria found in SMC 25.09.045 for "previous legal grading". In this case, during construction of the roadway (22nd Ave. NE), fill was added on the site that created the steep slope on the site.

Even with the limited exemption, the project is subject to all applicable submittal requirements and development standards in Seattle Municipal Code (SMC) Chapter 25.09 for Environmentally Critical Areas however, SMC25.05.908 provides that the scope of environmental review for projects within critical areas shall be limited to 1) Documenting whether the proposal is consistent with the City's ECA regulations in SMC 25.09; and 2) Evaluating potentially significant impacts to the critical area resources not adequately addressed in the ECA regulations.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation"* subject to some limitations. Under some limited circumstances (per SMC 25.05.665.D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts the ECA is appropriate.

Short-term Impacts

The temporary demolition and construction activities may result in adverse impacts to the ECA, specifically: earth movement and erosion.

Several of these construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Stormwater Grading and Drainage Control Code (SMC 22.802.015.D), the Street Use Ordinance (SMC Title 15), and the Seattle Building Code. The scale of the impacts that have been identified are not considered significant (as defined in 25.05.794 and described in 25.05.330 and applied to the threshold determination required by RCW 43.21.C). The application of adopted City codes (mentioned above) is adequate to address most of the impacts however, due to the soil conditions identified on site, proximity of trees on an adjoining site and the presence of steep slopes some additional discussion about construction activity, erosion control, earth movement and drainage is warranted.

Construction

SEPA Construction Impacts Policies (SMC 25.05.675.B) allow the reviewing agency to mitigate development impacts associated with construction activity. The geotechnical report evaluated the soils on site and determined that they are appropriate for use as fill (pg 7, prepared by Earth Solution NW LLC dated March 30th 2007). However, there are still a number of truck trips expected to and from the site, as a result of the excavation and construction work. As noted below, the construction access point will need to be stabilized to prevent erosion. Impacts resulting from the truck traffic associated with grading and construction will be of short duration and mitigated by the enforcement of the Street Use Ordinance. No further conditioning of the construction impacts associated with the project is warranted pursuant to SEPA policies.

Earth

SEPA Overview Policy (SMC 25.05.665) and the SEPA Earth Policy (SMC 25.05.675.D) allow the reviewing agency to mitigate development impacts associated with earth stability. The site is mapped as an ECA, steep slope and there is a history of landslides to the south of the site. Approximately 1,300 cubic yards of excavation is proposed as part of this project. The ECA Ordinance and the Stormwater Grading and Drainage Control Code require submission of a soils report that evaluates the site conditions and provide recommendations for safe construction in areas with steep slopes, and/or a history of unstable soil conditions. The applicant submitted a geotechnical report prepared by Earth Solution NW LLC (dated March 30th 2007). This report evaluated the soil and site conditions (including a history of earth movement to the south of the subject site in 1961 and 2006) and provided recommendations for erosion and drainage controls, for monitoring slope stability, grading, shoring and foundation construction.

The geotechnical study prepared by Earth Solutions NW states in part that *"In our opinion, the site soils represent a severe erosion hazard potential."* (pg. 5, last paragraph, geotechnical study, dated March 30th 2007). A summary of additional findings of the geotechnical report with respect to landslide potential are as follows: *"Based on our field observation and laboratory testing, it is our opinion the site generally has a low susceptibility to landslide activity. In our opinion new construction will not increase the susceptibility for landslide activity. In our opinion, the soils observed at our test site would generally exhibit severe erosion hazard characteristics, but would not exhibit excessive instability. In our opinion the proposed construction will likely improve the overall slope stability near the development envelope due to improved soil retention via concrete foundation walls, and improved site drainage."* (first paragraph, pg 5, geotechnical report prepared by Earth Solution NW LLC, dated March 30th 2007)

Subsequent to the geotechnical report, in June of 2007, an ECA exemption was granted by the Department of Planning and Development from the requirement for an ECA Variance for the proposed development, based on the criteria found in SMC 25.09.045 for "previous legal grading". In this case, during construction of the roadway (22nd Ave. NE), fill was added on the site (up to 20ft deep along the western portion of the site) that created the steep slope as it exists on the site today.

The recommendations for monitoring earth movement found in the geotechnical engineering report prepared by Earth Solutions NW LLC (dated March 30th 2007) include a video survey to document the existing conditions and placement of survey points along the right-of-way. The soils report, construction plans and recommendations for shoring of excavations will be reviewed by the DPD Geotechnical Engineer and Building Plans Examiner during review of the construction permit application. As provided for in the Building Code and the Stormwater, Grading and Drainage Control Code any additional soils-related information, recommendations, declarations, covenants or bonds as necessary to assure safe grading and excavation will be secured during review of the construction plans.

The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction methodology to assure safe techniques are used for erosion control, such as: restricted work on the site to the dry season (April to October), standards for stabilization of construction access points and requirements for silt fencing. The applicant's geotechnical engineer has also made site specific recommendations for temporary shoring during excavation, monitoring moisture content of the soil and provisions for silt fencing all along the length of the building envelope, along the eastern property line.

Vegetation retention and/or replacement are related to both short and long term impacts on drainage and earth movement. During the public comment period there was concern expressed about the loss of vegetation, especially at the shared lot line with properties to the east which neighbors described as "a green belt". Two Hemlocks that are established on an adjoining property have roots and dripline that cross onto the subject site (near the northeast corner of the lot), that can be damaged by grading activity and construction equipment. The developer has voluntarily agreed to protect the health of the two native trees by establishing a tree protection zone as shown on sheet L1.0 (dated March 12, 2009).

The applicable environmental critical area, drainage, stormwater, grading and building codes provide for extensive review, conditioning authority and prescriptive requirement for best management practices to assure compliance to drainage standards. These regulations will be applied to the project during review of the construction plans that will be prepared for the building permit. Adopted ordinances and the recommendations of the applicants Geotechnical Engineer provide adequate mitigation for drainage and erosion control grading and potential earth movement; therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

Potential long-term impacts that may be expected as a result of this proposal include: increased surface water runoff due to greater site coverage by impervious surfaces and potential earth movement.

Several adopted City codes provide mitigation for some of the identified impacts such as: the Stormwater, Grading and Drainage Control Code which requires on site collection of stormwater with provisions for controlled tightline release to an approved outlet. The Land Use and ECA Code requires replacement of vegetation (including trees) and the geotechnical report provided by Earth Solutions (dated March 30th 2007) made findings about expected long term impacts to earth movement as a result of the project (as cited above under *Short Term Impacts*, *Drainage*).

The scale of the impacts that have been identified are not considered significant (as defined in SMC 25.05.794 and described in SMC 25.05.330 and applied to the threshold determination required by RCW 43.21.C) and the application of adopted City codes (mentioned above) and recommendations of the applicant's geotechnical engineer are adequate to address most of the impacts. However, due to the soil conditions and topography of the site and concerns raised by the public comment received about a history of flooding in the area, additional discussion of stormwater control, the drainage code requirements and any mitigation to be considered is warranted.

Drainage

As part of the development of the eight multifamily units on the site the applicant proposes approximately forty-three percent lot coverage, removal of nine trees, protection of two trees on the east property line and planting of thirteen new trees on the site (per plan sheet L1.0, dated March 12, 2009). The construction of the housing units includes storm water controls such as footing drains, a detention vault and infiltration gardens.

As noted in the geotechnical report (by Earth Solution NW LLC, dated March 30th 2007, pg. 7). The applicant proposes three methods of onsite stormwater collection, including: a) two-thirds of the stormwater collected on site (from structure roofs) will be directed to the detention tank proposed below the (underground) parking garage; b) one-third of the stormwater from roofs will be directed to infiltration planters on the eastern portion of the lot; and c) footing drains for the units on the western portion of the site will collect stormwater and direct it to the underground detention vault. The stormwater collected in the detention vault will then be pumped up to the public storm drain system in the right-of-way (22nd Ave. NE).

Maintenance regulations for drainage control facilities, found in the Stormwater, Grading and Drainage Control Code (SMC 22.802.090.A), state in part: "*Drainage control facilities, source controls, and stormwater treatment facilities required by this subtitle and by rules adopted hereunder, shall be maintained as specified in rules promulgated by the Director, by the owner and other responsible parties. The owner and other responsible party shall inspect permanent drainage control facilities at least annually, and sufficient for the facilities to function at design capacity. The Director of SPU may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to insure functioning at design capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan …"*

In order to assure properly functioning conditions and equipment, the Stormwater, Grading and Drainage Control Code provides the authority and the Department routinely requires a Memorandum of Drainage Control, which includes a maintenance schedule for the pump system, at the point that the side sewer permit is issued. In addition, the ordinance regulating environmentally critical areas (ECA Code) and the Land Use Code require the revegetation of the site. Compliance with applicable codes and ordinances along with application of the recommendations found in the applicant's geotechnical report and conditions of this Decision are adequate to achieve sufficient mitigation of the long term impacts identified.

Summary

The Department of Planning and Development has reviewed and annotated the environmental checklist submitted by the project applicant, reviewed the project plans and any additional information in the file including the geotechnical report prepared by Earth Solution NW LLC (dated March 30th 2007).

The project is anticipated to have several short and long term impacts, including: potential erosion or landslide and increased impervious surface on the subject site. Adopted codes such as: the Stormwater, Grading and Drainage Control Code, Seattle Building Code, the Seattle Land Use Code, SDOT Street Use regulations and the Environmentally Critical Area ordinance as well as the recommendations made by the applicants geotechnical engineer are sufficient to mitigate the impacts identified.

DECISION - SEPA

The responsible official on behalf of the lead agency has made this decision after review of a completed environmental checklist and other information on file with the department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

None.

Signature: (signature on file) Date: October 22, 2009
Justina Guyott, Land Use Planner
Department of Planning and Development

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